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SUBJECT: PERU RESPONSE TO TIP REPORTING QUESTIONS

REF: SATE 00132759

¶1. (SBU) Embassy Lima submits the follow response to the TIP reporting questions found in paragraphs 23-29 of the cable guidance (reftel) in regards to the 2008 Trafficking in Persons report.

¶2. (SBU) Peru's TIP Situation (paragraph 23)

A) The primary sources for information contained in this report are the Government of Peru's (GOP) Multi-sectoral Committee (MSC) on Trafficking in Persons within the Ministry of the Interior, the Peruvian National Police Anti-TIP Unit, the United Nations, the Office of International Migration IOM and several Non-Government Organizations. The MSC itself is composed of representatives from various Ministries within the government, non-governmental organizations, and international organizations. The MSC is considered the most reliable source of TIP information in Peru in general. In 2006 the Peruvian National Police, in conjunction with a local NGO, established a computerized case tracking system (RETA) to track TIP cases as they move through the legal system. As of this date, the RETA system only tracks police investigations, therefore, a comprehensive and integrated official tracking system for all TIP cases, crimes and prosecutions does not exist. However, the Ministry of the Interior plans to expand the capabilities of RETA to track a TIP cases once it has moved to the Public Ministry for prosecution and, by the end of 2009, RETA will incorporate sentencing data from the Ministry of Justice.

B) Peru is a source country for women and children trafficked internally for sexual exploitation and forced domestic labor. The critical socio-economic conditions especially in the rural and Amazonian regions of the country create an environment conducive to trafficking. The majority of victims are young women and girls moved from rural to urban areas or from city to city, particularly from the Amazon region of the country to the larger eastern cities such as Iquitos and Pucallpa. There are reports of women and girls trafficked from the rural areas of the country to the emergency military zone of the country called the VRAE, though accurate information is limited. The VRAE is a drug trafficking stronghold, declared an emergency zone by the government, where state presence is ineffective. Local State presence is highly corrupted by the drug trafficking elements. These victims in the VRAE, mainly underage girls, are forced to work in brothels, some of them owned by drug traffickers, and to service members of the drug trafficking organizations - though accurate reporting is limited and anecdotal. Overall, trafficking victims in Peru are coerced

into prostitution in bars, nightclubs, and brothels or forced to labor in the mining industry, serve as drug dealers, beg in the streets or live as domestic servants. Though domestic trafficking is the primary TIP issue in Peru, there were cases of Peruvian victims trafficked for sexual exploitation to Spain, Japan, the United States and neighboring countries. The major destinations for victims remain the same as last year's report.

C) Neither the GOP nor the NGO community maintains records on the types of conditions victims are trafficked into. Through the process of gathering information for this report, it was acknowledged by the NGO sector that this information needs to be tracked and recorded. Victims are held captive through force or the threat of force in inhumane conditions and women and girls have been known to perform 15 sex acts daily. Their personal identification documents are taken away as a means of preventing escape or contact with authorities.

D) The most vulnerable group remains girls ages 8 to 17 and young women from rural and urban areas living in poverty. The majority of victims are trafficked from the Amazon region of Iquitos, Pucallpa, and Madre de Dios into the urban centers. Also in the urban cities many boys ages 8-11 work on the streets begging, selling candy or other items, and performing acrobatics or juggling in traffic.

E) Most Peruvian traffickers are independent business people, often female, or family-based organized crime elements. There is some evidence of drug traffickers involved in human trafficking but it is not tracked and therefore has not been confirmed. The most common methodology for traffickers is the promise of better work and pay or the opportunity for a better education for the child. Some groups go as far as to post advertisements in public areas offering jobs as servers in bars and restaurants, or nannies. The friend of a friend approach is also common as is the use of employment agencies.

13. Setting the Scene for the Government's anti-TIP Efforts (paragraph 24)

A) Yes the GOP does acknowledge that trafficking is a significant problem in Peru.

B) In 2004, the GOP established a permanent ministerial-level multi-sectoral committee (MSC) to lead and coordinate all GOP anti-TIP efforts. The Director of the Office of Human Rights within the Ministry of the Interior chairs the committee. The MSC includes the following: the Peruvian National Police, the Migration and Naturalization Agency, the Public Ministry, the ministry of Justice, the Women's Ministry, the Ministry of Foreign Affairs, the Ministry of Labor, various TIP NGOs, and multinational organizations such as the UN and IOM NOTE: The progression of a TIP case begins first with the National Police, then moves to the Public Ministry for prosecution and then to the Ministry of Justice for judgment and sentencing.

C) As reported last year, the lack of real resources for TIP agencies and widespread low level corruption place severe limitations on the government's ability to adequately address TIP in practice not only with prosecutions but to provide adequate victims, assistance. The GOP and NGO community continue to identify the lack of sensitivity training for police and a weak knowledge base on the part of GOP authorities as obstacles to progress.

D) The GOP systematically monitors all TIP efforts through the Multi-sectoral Committee for TIP (MSC). The MSC produces a public report annually detailing activities of all GOP involved in combating TIP as well as the activities of the NGO community and International Organizations. The 2008 MSC report detailed the activities of the Ministry of Interior, Ministry Foreign Affairs, Ministry of Women and Social Development, Ministry of Justice, Ministry of Education,

Ministry of Labor, and the Ministry of Tourism. The report also includes the activities of the following NGOs: Accion por los Ninos, Instituto de Estudio dela Familia y la Infancia (IDEIF), Capital Humano y Social Alternativo (CHS), Movimiento el Pozo as well as UNICEF, UNODC, IOM, and ILO.

14. Investigation and Prosecution of Traffickers (paragraph 25)

A - B) In January 2007 the Peruvian Congress approved Law 28950 against the trafficking of persons and the illegal trafficking of migrants. In March 2008, Directorate Resolution 277-2008-DIRGEN/EMG established a National Police TIP Investigation Unit. In November 2008, the implementing regulations of Law 28950 were approved by Supreme Decree 007-2008-IN defining the norms and responsibilities of all responsible government authorities in the prevention, protection, assistance, and prosecution of TIP crimes and TIP related crimes. The Supreme Decree further encourages the cooperation and commitment from the NGO community as well as all present international organizations.

Law 28950 provides penalties from 8 to 25 years imprisonment for trafficking in persons for both sexual and labor exploitation. If the trafficker has a position of authority, is a representative of a social organization or enterprise; has a family relationship with the victim biologically or by adoption or the victim is between 14 and 18 years of age, or has a disability, it is considered an aggravated form of trafficking and the penalty is between 12 and 20 years. The penalty is no less than 25 years if the trafficker is: part of a criminal organization; if the victim dies, is seriously wounded, or is in a life-threatening situation; or if the victim is under 14 years of age or has a disability.

The following lists the sentencing guidelines within the Peruvian Penal Code for sexual exploitation of minors:

Article 179: Promoting Prostitution
4 to 5 years
Aggravated
5 to 12 years

Article 179-A: Clients 4 to 6 years

Article 180: Pimping 3 to 8 years

Aggravated
6 to 12 years

Article 181: Child-Sex Tourism
2 to 6 years

Aggravated
6 to 10 years

Article 183: Child Pornography

If the victim is between 14 and 18
4 to 6 years

If the victim is less than 14
6 to 8 years

Aggravated
8 to 12 years

C) The following lists the sentencing guidelines within the Peruvian Penal Code for labor exploitation:

Article 128: Forced labor in dangerous conditions
1 to 4 years

Aggravated
2 to 5 years

Article 129: Forced labor resulting in serious

Injury or death
3 to 8 years

Article 168: Forced labor
2 years

D) Law 28704 outlines the penalties for rape or forcible sexual assault as the following:

Article 170: Rape
6 to 8 years

Aggravated
12 to 18 years

Article 171: Rape of a person in an unconscious situation or injury
10 to 15 years

Aggravated
12 to 18 years

Article 172: Rape of a persona with a disability or injury
20 to 25 years

Aggravated
25 to 30 years

Article 173: Rape of a minor less than 14 years

If the victim is less than 10 years old
Life imprisonment

If the victim is 10 to 14 years old
25 to 30 years

Aggravated
Life imprisonment

Article 173-A: Rape of minor resulting in serious injury or death
Life imprisonment

Article 174: Rape if the individual has a position of authority on the victim
7 to 10 years

Article 176 and 176A: Acts of public indecency with minors

If the victim is less than 7 years old
7 to 10 years

If the victim is between 7 to 10 years old
6 to 9 years

If the victim is between 10 to 14 years old
5 to 8 years

Aggravated
10 to 12 years

E) Law Enforcement Statistics:

Accurate and complete information is difficult to obtain from the Peruvian judicial system because communication and

data-sharing within and between the ministries remains problematic, hence the inconsistent information year to year. This issue is recognized amongst the involved agencies at the working level and by the MSC.

In 2008, the TIP Investigation Unit reports investigating 145 TIP related crimes. The RETA system reports 54 TIP cases in the prosecutorial system, 5 of which received sentences from 8 to 12 years in prison. Though the TIP Investigation Unit repeatedly raided clandestine brothels and rescued/ returned a number of young women, the raids resulted in few arrests for trafficking crimes and the numbers of those rescued were not accurately reported.

The following lists TIP cases prosecuted during the year:

June 2008: Paulina Sherllit Ortiz Sandoval, otherwise known as "Paulina-Negra Bertha" was sentenced to 8 years in prison for the forced labor and sexual exploitation of minors in the cities of Iquitos and Cusco.

July 2008: Placentino de la Cruz Salhua was sentenced to 9 years in prison for the forced labor and sexual exploitation of minors in the cities of Pucallpa and Lima.

December 2008: Teobaldo Saavedra Chamba was sentenced to 12 years in prison for sexual exploitation in the cities of Iquitos and Sullana. Also in December, Segundo Yoel Merino Sanchez, owner of a tourist restaurant in Piura, was arrested by the TIP Investigation Unit on charges of forced labor and the sexual exploitation of minors, his case is still pending.

IOM Statistics

As of October 2008, IOM reports that of the ninety-six possible TIP violations reported to the Ministry of Interior's hot line service from March 2006 to July 2008, The Judicial Power was only able to prosecute three. It is unclear at this time if that is due to most of the calls not being trafficking related or the inability to follow through on the reports. Overall, IOM data supports the GOP's information that the majority of trafficking victims come from the Amazon jungle regions.

F) The NGO community, as well as international organizations such as the UN and IOM, work closely with the GOP to train police officers, prosecutors, and judges specifically on TIP.

The GOP provides conference facilities and other services for TIP training. As the Ministry of the Interior continues the expansion of the RETA case tracking system, training for police officers and prosecutors on how to use the system also includes generalized training on TIP and recognizing TIP crimes. Finally, the recently passed implementing regulation for TIP Law 28950 emphasizes the importance of training GOP officials on TIP crimes thus demonstrating the GOP recognition of the need for training.

G) The Ministry of Foreign Affairs has established a protocol between the Peruvian National Police (PNP) and Interpol to respond to complaints filed by TIP victims outside of Peru. There were no reports of international trafficking investigations during the reporting period.

H) According to current Peruvian law, any criminal act committed by a Peruvian in a foreign country can be tried in Peruvian courts as if the crime had been committed in Peru. The law also stipulates that Peru is obligated to conform to all international treaties and norms that it has signed and ratified including extradition treaties. To date, no one has been extradited for TIP crimes, and no Peruvian has been charged with TIP crimes outside of Peru. There are no reports of TIP related extraditions during the reporting period.

I) Low level police corruption remains an issue, however, there is no evidence of GOP involvement or tolerance of trafficking.

J) There are no reports of GOP involvement in TIP crimes during the reporting period.

K) Though the act of prostitution is not criminalized in Peru, the activities of brothel owners/operators, clients, pimps, and enforcers are criminalized. Prostitution is legal for women over the age of 18 but they must register with municipal authorities and carry a current certification of health.

L) The law applies to any TIP criminal act committed by a Peruvian national either at home or deployed abroad. As defined by Peruvian Law, the government may investigate, prosecute, convict and sentence Peruvian nationals for acts committed while deployed abroad. There were no reported cases of Peruvian nationals involved with TIP crimes while deployed abroad.

M) Peru is a destination for child sex tourism primarily in the cities of Iquitos and Cusco. The GOP does not maintain comprehensive data on the arrest, prosecution, or extradition of foreign sex tourists in Peru nor does the GOP maintain data on the number of pedophiles prosecuted in Peru or extradited to their country of origin.

15. Protection and Assistance to Victims (paragraph 26)

A) According to the law, the GOP is required to assist and protect victims and witnesses by providing temporary lodging, transportation, medical, psychological, and legal assistance, as well as assistance in re-adapting to family and society. Under the law are provisions for witness protection which include new identities, safe houses, police protection, and new jobs. However, the GOP has yet to put in the real resources to achieve what is mandated by law and therefore there are limited facilities and resources and effective protection to victims and witnesses.

Under the law, the following government authorities are able to provide victim assistance and witness protection: the Ministry of Women and Social Development, Ministry of Health, Ministry of the Interior, Ministry of Education, Ministry of Foreign Affairs, Ministry of Justice, Ministry of Labor and Employment, the Public Ministry, and the Ministry of Justice.

B) The GOP does not operate specific TIP shelters. What shelters exist are operated by the local NGO community, though with some support from the Government such as subsidized locations and food. At this time, the GOP does not have a specific budget line for TIP victims, assistance nor is there significant financial support from the GOP to the NGO community. Most TIP victims are cared for in women and children's shelters such as those run by the Ministry of Women and Social Development located in Iquitos and Cusco; shelters whose primary mandate is to assist child victims of sexual abuse and are not necessarily equipped to handle the special needs of TIP victims. The National Institute for Infant and Child Welfare does maintain a live-in center for TIP victims in the cities of Callao and Chiclayo, but it is administered by a local religious welfare organization called the Sisters of Adoration and the NGO Movimiento El Pozo. At this time, there is no specialized center/shelter for adult male victims.

C) In general, the GOP is ill equipped and unable to provide victims, assistance, especially at the street level; i.e. police officers. In many cases, underage prostitutes and victims return to the brothel because it is the only place where they can find food and shelter. There is a real lack of training and sensitization to TIP and the special needs of TIP victims. Victims are not advised of their rights and medical treatment is limited or not provided. There is no GOP funding to NGOs or through international organizations for victim assistance, aside from that mentioned above.

D) The Ministry of Foreign Affairs is equipped to provide assistance to foreign victims attempting to return to their country of origin. One such case involved an Ecuadorian victim who had been deceived via an internet ad and then sexually exploited in Peru. She was given temporary shelter and then repatriated to her country of origin.

E) The GOP has limited long-term shelters or live-in centers capable of providing rehabilitation services; what shelters do exist are for short term emergency care. The NGO Sister of Adoration is the only known shelter providing long term and live-in assistance to TIP victims. Victims receive medical and psychological care as well as vocational training in baking, hairdressing, dressmaking and computers. Capacity is 60 female adolescents, but there is additional space for the infants and children of these victims.

F) There is no formal referral process for the transfer of victims.

G) According to the RETA case tracking system, 153 trafficking victims were identified during the reporting period. However, it is suspected that the number is significantly higher because information available continues to be inaccurate and incomplete. The number of victims assisted is not available. The intent of the recently passed implementing regulations of Law 28950 is to help streamline the reporting of TIP related data and improve the accuracy of the nationwide numbers.

H) The GOP does not have a formal mechanism for identifying trafficking victims among persons involved in the legal/regulated commercial sex trade. The lack of proper identification and age determination of victims and persons involved in the legal sex trade also makes it difficult to establish the number of underage TIP victims.

I) Basic human rights are generally respected by the local police forces and there are no reports of trafficking victims being mistreated, detained, jailed, or fined.

J) Currently, there is no GOP program or mechanism to encourage victim participation in their own investigation or in the prosecution of the trafficker. Victims may file civil suits or seek other legal action against traffickers though there have been no examples of this occurring in Peru. Victims are not permitted to leave the country without permission from the court while their case is being processed.

K) As stated above, the recent passage of the implementing regulations of Law 28950 includes the need for specialized training for government officials. The NGO community provides training for police officers and prosecutors as does the United Nations. Peruvian embassies worldwide provide emergency phone line services for victims of trafficking and are required to maintain current information of protection centers within their jurisdictions for victim referrals.

The NGO Action for the Children (AFC) completed training law enforcement officers and other government officials in the identification and prevention of TIP crimes. The training was conducted in Lima, Callao, Huarmey, Ancash, Huaraz, Huari, Sihuas, and Recuay. Action for the Children trained 848 municipal officers, 588 students, teachers, school directors, and education specialists in TIP awareness.

AFC conducted workshops on identifying solutions and prevention of TIP for 304 police officers, prosecutors, and judges. AFC worked with the naturalization and migrations office to train 75 officers in prevention and victim assistance. Eighteen journalists participated in a TIP workshop focused on education and human rights.

L) The Ministry of Foreign Affairs has mechanisms in place to work with counterpart Peruvian ministries in assisting repatriated victims.

M) Overall, there are 14 NGOs and international organizations in Peru that work on TIP-related issues. These NGOs and international organizations work closely with the GOP on TIP and are often invited to attend the MSC meetings.

The following seven NGOs work specifically with TIP victims:

-- Action for the Children (Accion por los Ninos): Conducts training for GOP officials, organizes community anti-TIP campaigns, and coordinates with law enforcement authorities in victim assistance. This NGO also operates a shelter for underage TIP victims.

-- Save the Children: This NGO also provides training for GOP officials mainly focused on sexual and labor exploitation of children and adolescents.

-- The El Pozo Movement (Movimiento El Pozo) seeks out and identifies sexually exploited or abused women and minors and provides guidance counseling and temporary shelter for victims.

-- Flora Tristan Center (Centro de la Mujer Peruana Flora Tristan) seeks out and identifies sexually exploited or abused women and provides guidance counseling and temporary shelter for victims.

-- Sisters of Adoration (Hermanas Adoratrices) provides long-term shelter and rehabilitation services including educational skills for female victims of commercial sexual exploitation of minors.

-- Institute for the Study of Children and the Family (Instituto de Estudios por la Infancia y la Familia) provides training for GOP officials focused on trafficking of children and adolescents for sexual exploitation as well as child sex tourism and border trafficking of children.

-- Human and Social Capital Alternative (Capital Humano y Social Alternativo CHS/A) provides training for law enforcement officials and operated a women and children's shelter in Iquitos. This NGO designed the computerized case-tracking system RETA for TIP and trains the police using the system.

The following six international NGOs and organizations are operating in Peru. There are no reports from these organizations of lack of cooperation from local authorities.

-- International Office of Migration (IOM) supports and/or participates in TIP workshops/training sessions nationwide. The IOM is assisting the GOP's MSC to produce a National Plan of Action for TIP and funds the toll-free hotline run by the Ministry of the Interior.

-- United Nations Children's Fund (UNICEF) provides technical assistance and support for training on combating the sexual exploitation of children and adolescents--prevention, public education, and rehabilitation of the victims.

-- International Labor Organization (ILO): Provides technical assistance and support for training regarding labor exploitation.

-- United Nations Office of Drugs and Crime (UNODC): Provides technical assistance and financial support for training on TIP issues.

17. Prevention (paragraph 27)

A) During the reporting period, the Ministry of Foreign Affairs produced videos aimed at educating travelers and visitors regarding the legal consequences of engaging in TIP

or consuming TIP services. The videos are running in different public transportation locations across the country and are primarily aimed at consumers.

The International Office of Migrations (IOM) conducted an anti-trafficking information and education campaign aimed at potential victims entitled "Don't be treated as merchandise" in an effort to raise awareness about the various forms and modalities of trafficker methodologies. The primary objective of the campaign was to promote the hotline and encourage society to report TIP related crimes. Since the installation of the hotline in 2006, the Ministry of Interior it has received over 11,000 calls with a noted increase of calls during the campaign and other similar awareness efforts throughout the country.

B) The Immigration Unit within the Peruvian National Police and Peruvian Immigration within the Ministry of the Interior do not monitor immigration and emigration patterns for evidence of trafficking. Law enforcement agencies along the borders do not screen for potential trafficking victims.

C) The mechanism for coordination and communication between the various government authorities on TIP issues is through the permanent, ministerial level Multi-Sectoral Committee; established in 2004. Three coordination meetings were called during the reporting period.

D) The national plan of action against trafficking in persons 2007-2011 has yet to be approved. The MSC worked with IOM to draft the plan but it is still under review in the legal office of the Ministry of the Interior

E) The GOP has not taken any measures during the reporting period to reduce the demand for commercial sex acts.

F) The GOP has not taken any measures reduce international child sex tourism by nationals of Peru during the rating period.

G) There is no record that the Ministry of Defense has taken any measures to avoid participation of Peruvian soldiers in any actions related to trafficking in persons.

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This report required approximately 40 hours to complete.
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